

Defendant-Counterclaim Plaintiff.

) Civil Action No.: 1:13-cv-12553
)
)
) **DECLARATION OF BRIAN R.**
) **MICHALEK IN SUPPORT OF**
) **PLAINTIFF'S EMERGENCY**
) **CROSS-MOTION FOR ENTRY OF**
) **A PROTECTIVE ORDER**
)
)
)
)
)
)
)

3. Attached as Exhibit A is a true and correct copy of Braintree's Notice of Deposition pursuant to Federal Rule of Civil Procedure 30(b)(6) dated December 24, 2015.

4. Attached as Exhibit B is a true and correct copy of an excerpt of a guidance document from the Food and Drug Administration explaining the accepted practice in the pharmaceutical industry of responding to unsolicited requests about FDA-regulated medical products by providing truthful, balanced, non-misleading, and non-promotional scientific or medical information that is responsive to the specific request, even if responding to the request requires a firm to provide information on unapproved or uncleared indications or conditions of use.

5. I declare under the laws of the United States of America and penalty of perjury that the foregoing is true and correct.

Executed this 8th day of January, 2016, in Chicago, Illinois.

/s/ Brian R. Michalek

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the CM/ECF system on January 8, 2016 and will be sent electronically to the registered participants as identified on the NEF:

Barry S. Pollack
Joshua L. Solomon
Eric Sommers
Phillip Rakhunov
POLLACK SOLOMON DUFFY LLP
133 Federal Street, Suite 902
Boston, MA 02110

/s/ Arne M. Olson
Arne M. Olson